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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,349	11/21/2003	Kenneth A. Meyers	085001-9046-00	3311
23409	7590	09/20/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 09/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/719,349

Applicant(s)

MEYERS ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-19 and 22 is/are rejected.
- 7) ☒ Claim(s) 5-7, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/19/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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This is the first office action for application number 10/719,349, Suspension Adjusting Handle for a Suspension System, filed on November 11, 2003.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 12-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a suspension system for a seat on a vehicle...." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a suspension system," the seat and vehicle being only functionally recited. This presents no problem as long as the body of the claim also refers to the seat and vehicle functionally.

The problem arises when the seat is positively recited within the body of the claim, such as, "wherein a majority of the handle is positioned under the seat." There is an inconsistency within the claim; the preamble indicates subcombination, while in at least one instance in the body of the claim there is a positive recital of structure indicating that the combination of a suspension system and a seat are being claimed.

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The examiner cannot be sure if applicant's intent is to claim merely the suspension system or the suspension system in combination with the seat.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the suspension system alone or the combination of the suspension system and the seat. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the subcombination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

Claim 12 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a seat" in line 4 of the claim is intended to refer to the original recitation of the term "a seat" in line 1 of the claim. It is suggested that the latter recitation be changed to either --the seat-- or --said seat--.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,874,626 to Gross et al, hereinafter, Gross. Gross discloses a suspension system for a seat on a vehicle, the suspension system comprising: a first frame member (11); a second frame member (7) connectable to the seat and coupled to the first frame member, the second frame member being movable relative to the first frame member; a suspension member (12) coupled to both the first frame member and the second frame member, the suspension member suspending the second frame member above the first frame member; an adjustment mechanism (essentially elements 27, 29, 30, 33, & 38) coupled to the suspension member and manually manipulated by an operator to adjust the stiffness of the suspension; a handle (41) to facilitate manual manipulation of the adjustment mechanism, the handle being movable along a portion of the adjustment mechanism between a first position and a second position; an engaging member (37) resiliently resisting movement of the handle between the first position and the second position; wherein the handle is rotatable to adjust the stiffness of the suspension and is slidable along a portion of the adjustment mechanism between the first and second positions; wherein a majority of the handle is positionable under the seat in the first position, and wherein less of the handle is positionable under the seat in the second position than in the first position; and wherein the adjustment mechanism includes a threaded rod (27).

Claims 1-4, 8-12, 16, 18, 19, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,072,287 to Swenson et al., hereinafter, Swenson. Swenson discloses a suspension system for a seat on a vehicle, the suspension system

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comprising: a first frame member (1); a second frame member (8) connectable to the seat and coupled to the first frame member, the second frame member being movable relative to the first frame member; a suspension member (40) coupled to both the first frame member and the second frame member, the suspension member suspending the second frame member above the first frame member; an adjustment mechanism (M) coupled to the suspension member and manually manipulated by an operator to adjust the stiffness of the suspension; a handle (K) to facilitate manual manipulation of the adjustment mechanism, the handle being movable along a portion of the adjustment mechanism between a first position and a second position; an engaging member (79) resiliently resisting movement of the handle between the first position and the second position; wherein the handle is rotatable to adjust the stiffness of the suspension and is slidable along a portion of the adjustment mechanism between the first and second positions; wherein a majority of the handle is positionable under the seat in the first position, and wherein less of the handle is positionable under the seat in the second position than in the first position; and wherein the adjustment mechanism includes a threaded rod (70) threadably coupled to the suspension member and being rotatable to preload the suspension member; wherein the handle is rotatable to facilitate rotation of the adjustment mechanism to adjust the stiffness of the suspension, and wherein the handle defines a polygonal/hexagonal cavity (80) therein, and wherein the adjustment mechanism includes a polygonal/hexagonal surface/nut positioned in the polygonal/hexagonal cavity of the handle and shaped complementary to the cavity in the handle, such that rotation of the handle causes rotation of the adjustment

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mechanism in a similar direction, and wherein the engaging member is positioned in the cavity of the handle and engages the adjustment mechanism to resilient resist movement of the handle between the first and second positions, such that the handle does not move between the first and second positions unless sufficient external forces are extend on the handle, the sufficient external forces being in excess of the weight of the handle.

### ***Allowable Subject Matter***

Claims 5-7, 20, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-15 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 3,086,742 to Severson

U.S. Patent 3,599,232 to Tabor

U.S. Patent 4,029,283 to Swenson et al.

U.S. Patent 4,241,894 to Okuyama

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U.S. Patent 4,397,440 to Hall et al.

U.S. Patent 4,448,386 to Moorhouse et al.

U.S. Patent 4,729,539 to Nagata

U.S. Patent 4,852,849 to Jones

U.S. Patent 4,856,763 to Brodersen et al.

U.S. Patent 5,364,060 to Donovan et al.

U.S. Patent 5,794,911 to Hill

U.S. Patent 5,927,679 to Hill

U.S. Patent 5,984,410 to Brodersen

U.S. Patent 6,186,467 to Wahls

U.S. Patent Application Publication 2003/0201660 to Janscha et al.

U.S. Patent Application Publication 2004/0144906 to Hill et al.

U.S. Patent Application Publication 2005/0001133 to Bostrom et al.

The above applications all disclose various types of seat suspension devices.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

September 15, 2005